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the Ikhemrijen forbid warfare and alliances, with a result that, as a natural outlet for bellicose exuberance, brigandage is rife. 619 642

In the northwestern part of Beni Amart, in the *canton* of Ijaonen, the power of the Ikhemrijen prevents warfare and alliance; otherwise the government is purely Riffian in type.

In the Ghomara the Arab system of government is employed, with the customary alignment of kaids (leaders of tribes), khalifas (leaders of *fifths*), and sheikhs (leaders of *cantons*), excepting that all these officers are under the jurisdiction of a marabutic family of Tetuan.

Metalsa, except Asht Dris, Beni Bu Yahyi, and Beni Sidel and Beni Bu Ifrur of Galiya, employ a hybrid form of government in which there is no village council and the council of the great consists only of two or three men who meet in the market to administer justice for the region near it.

Mtiwa, Mestassa, Beni Bu Yafer, Ait Shisher, Mazuza, Kebdana, Muziet, Rgheiwa, Ain Mediuna, Bab Wendar, Beni Ulid, Branes, and Burda had fallen completely under the Arab system before the time when Abd el Krim attempted to remodel the government. In the eastern section and in Mtiwa and Mestassa the kaid was euphemistically called by the Berber term *amghar* (councillor), and in the Senhajan tribes mentioned the sheikh was called *kebir el jama*, or "great one of the congregation."

DUTIES OF THE VILLAGE COUNCIL

The cases tried by this body and the matters it is required to regulate are as follows (the fines listed are only approximate): 623 672 685

Theft of eggs and of poultry. The thief must pay a fine of thirty dollars. If the culprit is a child, his father appears and pays it.

Theft of maize. Boys who steal early ripening maize are collectively fined five dollars. The injured farmer has the right to pick ripened ears from the terraces of the thieves' parents to the number which he has lost.

Cutting maize in adjoining terraces. Sometimes maize growing in adjoining terraces, owned by different men, ripens at different times. The owner of the later ripening maize may wish to prevent the owner of the other field from cutting his crop until both are ready, through fear that his own maize may be trampled in the process. This situation arises when it is necessary to enter one terrace by passing through the other. In this case the village council enjoins the owner of the early maize to wait until the other is ready.

Breaking branches of fruit trees. If goats or children break branches from a fruit tree, the owner of the tree brings the branch or branches to the mosque, where the village council counts the number of buds on the branch or branches. A *girch* (about five cents) is charged for each bud, the recompense to be paid the owner of the tree, and in addition a fine of twenty dollars must be paid.

Trampling vegetable gardens. This offense is punished by a fine of one to two dollars, with no restitution.

Policing orchards. During the harvest season the members of this body police the orchards of the *bone* during the night to prevent thefts.

Starting the grape picking. The village council, which has charge of allotting poor families to rich ones for the grape picking, exacts a fine of twenty dollars from anyone guilty of picking grapes before the signal is given.

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623 692 *Picking windfall olives.* Similarly, the head of each family must pay a quarter of a dollar for each member of his family who starts picking up windfalls before the signal is given.

●685 *Theft of olives.* The outright theft of olives is punished by a fine of ten dollars.

Trespassing in order to pick grass. If a man catches a woman picking or cutting grass for her cow on his land, he may report her, and her husband will be fined one dollar. But to make such a report is considered mean and few are willing to do so.

Stray goats and cattle in the cemetery. When goats or cattle, either with or without the intention of their guardian, enter a cemetery, their owner is fined a quarter of a dollar for each goat, and a dollar for each bull or cow which entered.

[689] *Repair of irrigation ditches.* If any farmer fails to send a man or men to work on a ditch, when he is required to do so, he is fined between two and three dollars per day per man.

Taking water illegally from irrigation ditches. This is considered a serious offense, and although it incurs but a five dollar fine, it always breeds bad feelings and often incites to murder.

[782] 623 692 689 *Regulating attendance at prayer.* To explain this function it is necessary to anticipate the discussion of religion. Each *bone* in the *canton* is required to send twenty-five men once a week to the common mosque of the *canton* to pray. The village council of each *bone* lists the names of all married men in the *bone*: a day is set for each *bone* to attend the mosque, and the *bone* keeps that day permanently. The first week the first twenty-five men on the list must go, the second week the second twenty-five, and so on until the list has been exhausted, when the procedure starts all over again. If the number of married men in the *bone* is not evenly divisible by twenty-five, those forming the remainder at the foot of the list are supplemented by enough at the head of it to fill the number, and the rotation starts anew. It is the task of the village council in whose territory the cantonal mosque is situated to see that twenty-five men appear from each *bone* on the allotted day. If a *bone* is so small that it does not contain twenty-five, it is combined with another *bone* for this purpose.

If the members of the village council of the mosque territory find that a quota is not full on a certain day, they fine the man who has defaulted five dollars. If this is not paid promptly the council of the great steps in and fines the guilty *bone* between two and three hundred dollars. If a man is away on a journey his name is temporarily stricken from the list and the following names are moved up one place; if he is ill or for some other reason unable to go, he is allowed to send a substitute. If a man falls ill on the way, becomes wounded, or is otherwise prevented from reaching the mosque when it is too late to obtain a substitute, his absence is excused.

The fines thus extracted, the proceeds of which go for the upkeep of the mosque, formerly consisted of walnuts, almonds, figs, or raisins. Later, when sugar was first imported, two sugar cones were assessed. Later still the money fine was introduced.

623 681 651 692 *Providing for exiles from other fifths.* When a man has been exiled by the tribal council for a year, two years, or more, he must pass to a different *fifth*, preferably to a *bone* in which he has friends. The village council of the *bone* collects an assessed portion of the crops of every farmer and gives it to him. This it does for the first year only. If he remains more than a year he must work as a share-laborer for a farmer and earn his living. If a farmer refuses to give his assessed portion it is taken by force, and twofold. Such refusals are, however, almost unknown.

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627 of the men affected, and may thus start a feud which will end in killings, after which it becomes the concern of the councillors to render justice.

In regions where the Arab form of government has supplanted the indigenous type, such affairs are decided by the sheikh.

DUTIES OF THE COUNCIL OF THE GREAT

623 This council, which is the governing body of the *canton*, does not convene as often as the village council, but comes together only in market and when some occasion demands it, its moderator then sending for the members. In *cantons* which have no markets, the council of the great has no regular meetings.

Supporting the village council. If anyone who has been fined by the village council refuses to pay it, that body sends a messenger to the moderator of the council of the great. The moderator sends for the members, who come armed to a place previously agreed upon and proceed in a body to the house of the offender. There they assess upon a him fine several times that originally imposed, amounting usually to between fifty and two hundred dollars, depending on the offense.

623 692 [685] *Theft of livestock.* A man who has stolen sheep, goats, cattle, donkeys, mules, or horses is summoned before the councillors and fined between a hundred and two hundred dollars, besides being forced to restore to his victim the animals stolen, in cash or in kind. The theft of camels does not incur jurisdiction because of the lawless condition of the nomads who own them. Such a theft simply results in a fight.

[683] *Fighting with sticks.* The councillors decide which of the parties is at fault and fine him fifty dollars. If the *bone* of the injured man is a strong one, the councillors force the culprit to bring a goat, bread, tea, and sugar and go with them to the house of the injured man to present him with a feast. Such a feast, provided by visitors to the house, is a strong act of compulsive magic and cannot be disregarded. The recipient of such a favor must grant any request made and cease enmity against the giver. If the *bone* of the injured man is weak, no precaution of this nature is necessary.

[683] *Shooting at a man but missing him.* He who shoots at another without hitting him must pay a fine of one hundred dollars to the councillors.

[680] *Speaking to women in market.* This offense is considered greater than that of speaking to women in any other place. It is settled by the councillors of the *canton* in whose territory the market is held, and is punished by a hundred dollar fine.

Entering a women's market. For a man to enter a market which is restricted to women is an offense as serious as that of speaking to a woman in a common market, if not more so. It is punished by a fine of a hundred dollars, paid to the councillors.

623 692 684 *Adultery which the injured husband does not discover in the act.* If a husband hears that his wife has been unfaithful, but did not actually witness such an event, he is not allowed to kill the suspected man without incurring the penalty for ordinary murder. He has the privilege of bringing the matter before the councillors, who fine the suspect, if they are reasonably sure of his guilt, between a hundred and two hundred dollars. They forcibly divorce the woman from her husband, and forbid her to remarry him or any other man. Women so divorced return to their parents to live. Such a woman often becomes a prostitute, plying her trade with the greatest secrecy possible. If she is caught doing this, the

426 part of the bargain, he is reminded to do so by the chief, and if he
686 refuses, they forcibly commit a theft of animals or property, so
627 that his jma'th will hear of it; and they thus oblige him to fulfill
623 his promises or give rise to the intervention of his jma'th, which will force him to start negotiations.

685 The property of thieves is sold as indemnity, and, if they
627 have gone or if this cannot be done, that of their kinsmen is sold, a fine is imposed, and the eyes of the recalcitrant individual are plucked out by a member of his family if he is caught[68].

623 None of the decisions of the jma'th are registered.

F) Social Organization:

1) The jma'th has generally been defined in terms of what it is not. It has been likened to the Roman forum, the Greek agora, and the Scottish clan[69]; and it has been considered the "cornerstone" or the "roof" of the "Berber house". It has been characterized as an administrative unit by some, and as a social, judicial (i.e. jural), religious or military unit by others. Some have taken the number of houses as a base point, others the fact of whether or not it contains a Friday ("cantonal") mosque. The etymology of the word--"assembly, meeting, council, junta"--has also been invoked as a basis for definition, but this, by itself, is also insufficient[70].

623 In my view, the jma'th is the elemental form of the association
621 of neighboring family groups oriented toward essentially economic ends.
[613] The actual number of such groups, whether two today or two hundred tomorrow, and whether occupying thirty or two hundred households, is

695 829 [181] the individual, in most cases. It therefore seems natural that the group rather than the individual (contrary to Islamic Law) proclaims its innocence[39].

695 212 Although written proofs are admitted, they are not common, and are always submitted previously to a fqih for his consultation. Also, [685] certain tulba were known to take advantage of their essentially notary function in order to falsify documents (one man even wrote up false Sultan's dahirs, or imperial decrees, and was jailed in Tangier!); and this did not make for any great respect of written proofs in Arabic, a language which in any case the Rifians did not understand. [157] Even today (1935) a Rifian who possesses a document is always looking for people to translate it for him, as he is never satisfied with one man's word and always suspects that the man who drew it up for him either misrepresented him or lied to him. I have known Rifians who went to the French Zone and even to Spain in order to obtain proper interpretations of their personal papers! Only death will separate a Rifian from his r-kwaghadh![40]

695 Conciliation and arbitration are the preferential jural processes in this society, where victory is difficult and defeat is hard; and one is drawn to the idea that what actually takes place is more akin to "horse trading" than to justice, in the European sense of the word.

It seems to me that the collective oath is the Rifian equivalent of the European "word of honor", in its unadulterated sense[41]. It has [619] a social rather than a religious significance, and, in practice, very little ritual; it is carried out in the mosque under the eye of the rival or plaintiff, and of those who were in on the secret, a sufficient action for public demerit in the "Big Ones" (imqqranen)[42]

685 3) theft, with corresponding fines, and even one of the thief's kinsmen putting out his eyes[61].

673 671 If there are certain crimes, known to all and carrying with them sanctions also known to all, which do not (translator's italics) appear in the qanums (such as bestiality[52A], etc.), they are kept out purposely because of the shame, the hashuma, of those who formulate the decrees. In other instances (such as certain misdemeanors having to do with agriculture and fields), they are kept out because their inclusion is difficult and they are also sufficiently well known to and by all concerned so that they do not need to be put in. In still other cases, they are kept out because they are questions of custom which require consultation with men of laws or arbiters. Finally, these are all misdemeanors the nature of which, in one way or another, is inadequate to be put before the public in special announcements by market criers.

I) Miscellaneous Data on Fines for Lesser Offenses:

1) Among the Ibuqquyen:

224 a) Hunting[63]: Saturday is the day for hunting (rayah or [689] thingimarth)[64]. Whoever does not attend pays a 5-peseta fine[65], and altercations during hunting are punished by a fine or by giving a meal to the other hunters. Animals killed do not belong to the man who kills [685] them but to the man who finds them[66]. Damages to cultivated lands are paid for by those who caused them. If it is not known who was responsible, the fine is divided up among all the hunters[67]. Any birds or eggs which are found by one of the hunters during the hunt are divided up [425] amongst them all. Any other objects found which are obviously lost articles of a third party are returned to their owners.

A, [This should read "62" not "52"--Analyst]

223 Nests and young birds are not respected, and are taken just as adults are.

224 In the mountains (Jbil) of the Aith Waryaghar, when a hunter (anigmar, pl. inigmarn) going over snow follows the tracks of an animal to a thicket or cave, he walks around it, leaving his footprints and making a circle in order to show that it is his property and that he will explore it on his return. Any other hunter or party respects this. Any animal which falls within the radius of action of the weapon used[68] is the property of whoever killed it.

671 684 b) Personal Law: If a woman accuses someone of dishonest abuse to her person, her testimony is admitted....A woman who is illegally pregnant pays 50 duros from her own property as a fine. If she was forced against her will, and the man who forced her appears, he pays. If she submitted to him willingly, he and she each pay 25 duros[69]. If she has no property, her brothers or male agnates pay[70].

685 695 c) Fine for Theft inside a House: 50 duros. If there is no proof, five adult and trustworthy agnates of the accused must swear to his innocence[71], at least if they have publicly announced in the market not to make themselves jointly liable.

688 793 d) Whoever fails to provide food for the fqih when his turn comes up to do so must pay 2 pesetas[72].

685 231 e) A herdboy who has animals stolen from him while in dhwara[73] must pay for them if he has not seen them stolen. The same holds true for injuries which the animals might suffer....Whoever does not pasture the animals of his jma'th when his turn comes up pays 2 pesetas and one loaf of bread, and has to give a meal to the person who does it for him, or to the jma'th if no one does so.

000 does it for him, or to the jma'th if no one does so.

684 f) Anyone who commits an act of bestiality must pay for the fodder of the assaulted animal for one day; and among the Aith Waryaghar, he must pay for its packsaddle as well as a 50-peseta fine, and he is cursed by the market crier in the market[74].....

2) Among the Aith 'Ammarth:

685 a) A blacksmith of....asked the qadi for a room to live in. It was given him, and in it he raised chickens, which began to eat the qadi's barley. The qadi claimed compensation from him, saying that he had to kill the chickens and leave the house. He refused to do so, and made a reclamation to the shaikh, who said he was in the right. Then a member of the qadi's family poisoned all the chickens, and the blacksmith complained to the mqaddim. The jma'th, as a result, met in the mosque and fined the qadi 18 duros, of which the blacksmith received only two or three.

685 692

582 b) In the village of Aith Finathen, clan of Aith r-Hasayin, one 'Amar nd-Hajj Sriman, a rich man, married his daughter to Muhammadi n Si Siddiq nd-Hajj Sriman, a poor man and one of his agnates (i.e. his brother's son), in order to keep him as a servant[75]. The young man eventually killed his uncle. The tribal council was convoked, and its members punished the dead man's sons by imposing a 6000-peseta fine on them; and they in turn killed Muhammadi and paid another fine....During his lifetime, 'Amar nd-Hajj Sriman, as well as his five brothers, had on various occasions paid 400 duros to the jma'th to excuse themselves from participation in tribal wars.

682 [619]

662 623

661 c) A poor man made a goatherd of one of his younger in-laws,

661 and made him pasture the few goats he had. The jma'th or its mqaddim needed money, and so one day they called him up and fined him 65 duros, accusing his mother of incest and saying that if he did not pay up, they would tell the rest of the tribe and it would cost him more. The boy ran away, out of shame.

428 d) Muhammad Hmidu n 'Abd Allah of Aith Finathen, on the
429 death of his father, was brought up by his grandmother, and when she
685 died, by his cousins, who periodically fed and clothed him in return for his acting as a goatherd for them. They kept and divided up his inheritance in land from his father, and did not give it back to him, in spite of the constant excitement of the qa'id over the matter[76].

J. Responsibility:

672 Collective responsibility as reflected in the qanuns is an
[671] amplification of responsibility to one's kin group and even...to the same social ties as those of other tribes (sic)[77]; this forces one's fellow tribesmen to comply with the duty of rectifying an injury or damage caused by one of their own people. It is an instinctive and necessary means of defense, and is done so that crimes will not go unpunished. This is all a consequence of the rudimentary social organization of the Rifians, of the difficulty of inquiry, of the lack of repressive organs[78] and of impartial and dispassionate individuals, such as judges. When independent states multiply and the extension of each one of them diminishes, such factors as the above make extradition (sic) more difficult and impunity more easy; and, for this reason, a group attribute is the obligation to educate (i.e. enculturate) and answer for its components. Thus, when the group publicly claims that

000 26--During the Republik, when the bridal party arrived at the groom's house, after dismounting his sister from the mule she was riding, the bride's brother went into the room that she was to share with the groom and fired a shot in it in order to get rid of any evil magic which might have been there. This is not done today; and in any event, [178] [656] as firearms have been forbidden since the days of the Spanish administration, people have been throwing firecrackers at weddings for the last 30 years or more.

[562] 27--In the Rif, women dance for men, never with them.

[535] 28--We do not know just which Bni Hmid is meant, for there are two [114] tribes of this name: Bni (or Aith) Hmid, in the Sanhaja Srir west of the Rif, and Bni Hmid s-Surraq ("Bni Hmid the thieves"), in the Jbala, the second generally being considered to be an offshoot of the first. As the first falls into the boundary of the old Spanish Territorio del Rif (now Province of El Hoceima) of which Blanco was administrator, it is probably the group he means.

29--Not daily, but whenever they feel the need to do so, about once or twice a week.

30--In Berber law as elsewhere, the testimony of witnesses puts the seal on the defendant's guilt.

31--What Blanco probably means by this European legal circumlocution is any case which cannot be decided on the spot.

[685] 32--After a man accused of damages to a field or irrigation ditch belonging to another person admitted his guilt, the injured party called in the aquwwam or agricultural expert, who assessed the damage and was paid one-third of the fine money by the owner of the field or ditch.

33--Quoted in extenso in La Ley Rifeña, op. cit., pp. 21-8. The qanun in question comes from the tribe of Aith Waryaghar, and involves several lineages of Tazurakhth, in the subclan Aith 'Adhiya, clan of Aith Bu 'Ayyash.

34--The original meaning of the word is "announcement, good news". In jural-legal terms, it refers to a small sum of money (rbsharth) given by one man who has lost some article to another to watch out for it.

35--Collective or plural oaths, perhaps more than any other institution, are the touchstone of the Berber judicial process. It is unfortunate that available sources on this crucial subject are so few and far between.

[648] The French, who underwrote Berber customary law with every means at their disposal, fostered, protected and encouraged the institution of plural oaths; but after independence in 1956, the new Moroccan administration did away with custom and oaths in one fell swoop.

[113] Rifian oaths have not been in existence since the Ripublik. The only published reference to them, and it is a most inadequate one, is in Edward Westermarck, Ritual and Belief in Morocco, 2 vols. London: Macmillan, 1926, vol. I, pp. 513-4.

36--A man accused by a woman of attempted rape had to swear to his innocence, but without cojurors, even during the Republik.

4. QANUN OF THE JAMA'A OF IMHAWLEN[31] (AITH WARYAGHAR):

A) Qanun:

692 621 614 693 Praise be to God. Those of the jama'a of Imhawlen appeared for judgment in front of both the undersigned notaries, and presented themselves to us: al-Hajj Shu'aib; Muhammad bin Muhammad bin Misa'ud and his brother Muhammadi; Qaddur bin ask-Shaikh Muhammad bin 'Abd as-Salam and his brother Muhammad; al-Muqaddam Muhammadi bin Muhammad bin Ahmad and his brother 'Allush; 'Abdallah bin al-Hasan; Muhammad bin 'Azzuz; Hammu bin Muhammad bin 'Ali and his uncle Shu'aib bin Shu'aib; Muhammad bin Muhammad bin Muhammad bin Musa; Muhammad bin Muhammad bin Ahmad bin al-Hasan; Muhammadi Amzzyan; Awlad al-Muqaddam Shu'aib bin Muhammad bin Shu'aib and their brother Hammu; Muhammadi bin al-Muqaddam and his brother 'Umar[83A], and their brother Hammu. 621 692 693 All these persons are of the jama'a of Imhawlen, and all appeared for judgment (at the present act), agreeing in behalf of what is good and advantageous to the making of the agreement, with respect to the hannash (evil doers; also snake charmers), to robberies and all acts of lowliness and ignominy (Blanco: note a).

685 689 In case any thief or smuggler should be caught in flagrante delicto, he must pay 10 mithqals in money (Blanco: note b).

695 Regarding the above, the interested parties testified. The Murabit Si Muhammad Dardushi and the Murabit Muhammad bin 'Abd al-Qadir al-'Azizi attended the present act with them. 784 Whoever changes or alters this agreement must answer to God, who shall decree his punishment. Those who commit misdeeds (on earth) shall know the change in the other life (Blanco: note c).

A, A ["83" apparently does not refer to any footnote here and therefore should be disregarded--Analyst]

695. Valid and complete testimony in virtue of which both instrumental witnesses bring testimony against them.

000 (Two illegible signatures follow.)

692 At the same time, they agreed that whoever should commit any of the wrongs (literally, "things") expressed herein, the case, together with him (the man who committed it) shall be taken to Sayyid Mhammad bin Musa[32] and Sayyid Ahmad bin 'Ali[33] (Blanco: note d).

685 Whoever enters an orchard with intent to rob shall pay 20 uqiyyas. If a bull should start to trample property adjacent to that of its owner, the latter shall pay one peseta.

685
672

The guarantors (of the fulfillment of this agreement) are three. The Muqaddam Muhammadi bin Muhammad bin Ahmad, Hammu bin Muhammad bin 'Ali bin 'Abdallah, and Muhammad bin 'Umar bin Ahmad bin al-Hasan (Blanco: note e).

[681] Regarding the amount (of the fines imposed) with respect to orchards in cases in which they are injured by animals, this will be donated to their mosque (Blanco: note f).

If they should break a branch of a fig or other tree belonging to anyone, the owner of the animals will pay 20 (uqiyyas).

000 A signature in Arabic follows, which appears to be al-Bu Jma' bin Muhammad (signed).

B) Commentary:

671
621 The reading of this qanun clearly indicates in its first paragraph the names of those who have established it, all of them members of the jma'th of Imhauren, bordering the Island of Alhucemas, in the

621 plain of the same name. Every two or three headmen or iziddifen (sing.,
613
554 aziddif, "head") are the visible representatives of the lineage groups

000 they are obliged to assemble in order to keep them down. Furthermore,
437 we may see the alarming case in which the commercial transactions of
556
152 some individuals with the Island of al-Husaima undergo a considerable increase; their gains, fabulously augmented through envy and general misery, permit their rivals to throw doubts and suspicion on the real origin of their opulence; having no other source of wealth, the latter impute frightful treacheries to them. Perhaps a bloodfeud or an
628
197 accusation deprived more than one Amhaw (sing. of Imhawren) of a large Spanish pension from the above island[34].....All this and the constant
613
623 inter-lineage hatreds charged the atmosphere in such a way that somebody had the idea, eagerly grasped by the rest, to hold a meeting in order to put an end to such a calamitous state of affairs.

623 When the date is established and has arrived, the meeting is held, without discussion of anything other than details, for in the preparatory work, as we have said, the participants have already reached the stage of assembling their criteria. There is no delay in expressing whatever must be considered a crime, nor even in the type and importance of the punishment, for as all of them committed sins or hoped for an occasion to do so, they had to establish a moderate punishment under a savage exterior, and, above all, a guarantee of not becoming enveloped in bloodfeuds.

623 For this reason, the popular assembly makes a collective and
689 graphic insult (Blanco: note b, in text), although afterwards this is
● 685 limited to a fine (Blanco" note c, in text) of fairly sizeable proportions which is imposed upon the smuggler and informer from al-Husaima Island or on a thief, in place of exterminating him. Thus public

623 Thus public
182 esteem and the ideas which such deeds provoke in others are regained;
673
687 they satisfy the mass of the people without having to resort to cru-
685 elty, for.....in a truly humane feeling, note c in the text shows that the author of the crime must have been caught in flagrante delicto.
627 Discounting possible vengeance and not very sure of having succeeded in
623 doing so, note e in the text shows the institution of a popular tri-
554 bunal formed by two neutral individuals, two men who neither take part
671 in the agreement nor are members of the jma'th, but the fact that they have prestige in it is a maximum guarantee of the workability of the qanun in question.

623 Furthermore, the jma'th as a social unit is personified not in
621 its mqaddim, in the Arab manner, but, hostile to personal power, in a triumvirate formed by three of the legislators who took part in the meeting and who remain obligated to watch over the fulfillment of the agreement. This executive organ of power is made up of laymen, and it as much as the aforementioned tribunal is the result of popular election.

671 In the few lines which this qanun has, aside from creating a
624 a code, a tribunal and a police force, all of which are, naturally,
182 gratuitous, it creates a rural exchequer, and all this with a good, natural and admirable feeling.

182
671 It restricts, through fear of fines, damages to the small social
626 unit it represents by guaranteeing the safety of property and discard-
681 ing cravings for economic expansion at the expense of member lineages.[35]
613

671 It creates lineage authorities whose jobs are gratuitous, and,
613 always suspicious, it avoids concentration of power in the hands of one
661 person, a fact which permits neither a shade of tyranny by the latter
182 nor a bastardization of his office.

671 Muhammad bin Muhammad; at-Talib Sidi Shu'aib bin al-Faqir Misa'ud;
695 Misa'ud bin Muhammad; Muhammad bin Muhammad al-'Attabi; 'Ali bin
621 al-Faqir Muhammad Azifzaf; Muhammad bin Muhammad of Ait Bu Bakr;
623 Misa'ud bin Muhammad; Sa'id bin 'Azzuz; Muhammad bin Muhammad; Muhammad bin ash-Shaikh 'Ali; and Muhammad bin Muhammad bin 'Ayad Amti; and giving respect to 'Ali bin 'Azzuz bin Muhammad bin 'Azzuz, (recognizing) that he is their shaikh, and, by the same token, the shaikh of the jama'a of Tamasint.

685 (Blanco: paragraph b) At the same time, regarding the orchards
821 and gardens, they agreed that if anyone be detained (while stealing) during the night, (he shall pay a fine of) 10 mithqals, and if he should do so during the day, he shall pay 50 uqiyyas. If he should steal cereals or fruits (literally, "figs"), he shall be punished in the prescribed manner with respect to orchards. If he should steal during the day, he shall pay 50 mithqals in money. If he should die
685 during and because of committing theft, there shall in no case be any indemnity to be paid.

682 (Blanco: paragraph c) If anyone should unsheath his dagger (with intent to attack), he shall pay one duro.[38] If he should point his rifle at someone of the aforementioned jama'a, he shall pay 10 mithqals to the shaikh.

685 (Blanco: paragraph d) If (the entrance) of (his) animals, such
672 as goats, cattle, sheep and donkeys, should take place in the cereal (fields) of his neighbor, he shall pay 10 muzunas.

574 (Blanco: paragraph e) If someone should spend the night as a
689 guest in the jama'a of Tamasint, all shall go to where he is staying

574 (perhaps to deliver their portion of the expenses necessary to maintain
689 the guest), and in case one of them is opposed to going, he shall be fined a goat or one duro.

695 (Blanco: paragraph f) Valid and complete testimony. Whoever
784 should change or alter this agreement shall answer to God. Both the
693 undersigned notaries know, personally and by name, all the parties who effected the present agreement.

685 (Blanco: paragraph g) In case anyone should open a pond or an
312 irrigation ditch (thus letting out the water), he shall be fined one duro for the pond and one mithqal for the irrigation ditch.

686 (Blanco: paragraph h) Regarding the contract with the schoolmaster, if anyone should be opposed (to contributing his share to the scholmaster's annual ration of barley), he shall be fined 10 uqiyyas.

689 (Blanco: paragraph i) If those mentioned earlier in the present agreement should assemble and agree on some useful matter, and if in this case there should be anyone (of the members of the abovementioned jama'a) who is opposed (to carrying it out), he shall be fined one duro.

622 (Blanco: paragraph j) Their shaikh is 'Ali bin Muhammad bin 'Azzuz. Everything that he orders (literally, "says") must be done
693 (literally, "will be"). The parties attending know the value of the present agreement, and in virtue of this, both the undersigned notaries bear witness that they are in a perfect state of legal capacity (i.e. of sound minds and memories) (in order to be able to effect the present
805 agreement) and that they know them. On the first (day) of Safar al-Khair of the year 1285 (May 24, 1868).

000 The slave of God--may He be glorified--Muhammad al-Khattabi and 'Umar bin Muhammad, etc.

681
673 Recalcitrance toward hospitality--5 pesetas

Disobedience to other agreements of the iziddifen--5 pesetas

Incompletion of contractual obligations to the schoolmaster--2 pesetas

Damages to irrigation ditches--2 pesetas

Damages caused by animals in land just sown--0.50 pesetas

673 An examination of this graded scale shows us with evident
623 clarity the importance which the jma'th attributed to acts committed
685 against it, those against property emerging as the gravest and most
423 feared; for the property of the jma'th was its support and sustenance, and its members placed the strongest penalty upon possible theft of its scarce food reserves in order to avoid such temptations.

623 The principal obsession of the jma'th as an institution is,
423 then, the defense of its property and the avoidance of agressions
578 among its members (author's italics), whose simple intention (author's italics) it punishes, in order to avoid quarrels.

623 Although rudimentary, it aims to fulfill the defensive needs of the whole social unit. It is not warlike, nor is it in the least
[793] religious, if we consider the very slight importance which it concedes
[574] toward sustenance of the fqih (two pesetas of the fine).[42] It is purely and simply a social unit which places much more importance on the duties of hospitality to guests, for example.[43]

[623] But it is humane. There are no lashings or mutilations, as
[681] instituted by Muslim law, with or without Qur'anic ceremonial; nor is there any deprivation whatsoever of personal liberty in the manner of
[554] European codes. Neither is it proud, converting the legislators into demi-gods, thanks to immunities and other profits....It aids them to

671 554 623 of knowing the needs of the moment, not past or future needs which do not mean anything to anybody. They are living laws designed for living people, for those present.

671 672 Paragraph b shows us how they embellish their law, taking aggravating and attenuating circumstances into account. Among these are nocturnity and dwellings (where they guard their fig and grain reserves). Attenuating and, even more, exemption from responsibility, [682] homicide is legitimate if committed in self defense or in defense of one's property.

681 554 661 671 Paragraph c punishes intention, in order to avoid disputes, and makes a small concession to personal power, permitting the shaikh to keep for himself this fine destined for the common fund.

685 672 671 Paragraph d is concerned with injuries to crops by animals, which are herded by children. The punishment is minimal.

In paragraph e, the law of the jma'th establishes and regulates 671 623 574 the social duty of hospitality, imposing the burden equally on all its members. Guests learn that it is not only the shaikh who pays for their upkeep, but all the members of the jma'th, even the poor ones.

623 574 Consider also the excessive number of voluntary servitors who dance continued attendance on the guest with towels, basins and soap, and finally the amphitrion hands over to their expectant voracity all the remains of your meal, except for one small dish which, passing through the door, is submerged in the mysterious interior of the dwelling as a reward for the activity of the women or children who prepared it. When you leave, each member of the jma'th retires with whatever he presented for your comfort: pillows, blankets, soap, coffee pot or tempot, towel, glasses, candles, etc.

685 In the same way, they agreed to impose fines for all damages or injuries which are caused, such as theft, etc.

Whoever should steal a sheep or a goat shall be fined 10 duros, and whoever should steal barley, broad beans, etc., from someone else's land shall be fined 5 duros.

681 In summation, all injuries or damages caused by one of them (the Bani 'Adhiya) against another (of them), a fine shall be levied from him, whoever (the party guilty) of the injury or damage may be.

671 In accordance with the above, their declarations were put down, as they have been expressed and explained. Valid and complete testimony. The parties who took part in the present agreement know [693] the value of this agreement, and because of this, both the undersigned notaries testify to what is set down and to the fact that they (the Bani 'Adhiya) are in a perfect state of legal capacity (of sound minds and memories) and that they are known (personally) to them (the notaries).

805 On the second day of the divine month of Jumad ath-Thani of the 600 year 1332 (April 28, 1914). Servant of his God, may He be glorified, 'Abd as-Salam bin 'Abdallah at-Tafrasti, may God be benevolent toward him. Servant of his God, Muhammad bin 'Aisa at-Taxurakhti, may God be benevolent toward him.

B) Commentary:

671 This synthetic qanun of the Aith 'Adhiya, drawn up in conformity with the dictates of the purest tradition, contains within it suggestions analogous to the rest of the documents which we have studied.

[771] It is a pact (author's italics), by which those who have agreed on it must in future regulate their coexistence and traditional

628 After the fixing of the ddiyith[62], there is the most laborious
671 agreement and the most hurried need for its enforcement; and the rest
673 of the resolutions have no objective other than that of embellishing
681 this, establishing a graded scale in conformity with the external manifestations of lesser crimes, which the Rifians did not deem necessary to put down in detail in their qanuns, in order to facilitate an easier mnemonic retention of the principal transgressions and resultant fines.

671 It points out theft with an admirable simplicity, according to
685 what is stolen, and it doubles the fine for a rustler of domestic
231 animals, a fact which follows the logical economic notion of the
556 Rifians of presenting such animals as the most esteemed source of wealth, as among nomad tribes.[63] It should be remembered that in the
178 old Rifian society, the consumption of meat was limited by the scarcity
262 of pasturage to Fridays, the holidays and by physiological needs, and
231 was regulated by the common sacrifice of animals and by compensating
224 hunts on fixed days.

If the meat supply diminished and they considered it indispensable, it would be completely natural to take precautions to pre-
685 serve it.....For precisely this reason the Rifians judged the theft of
673 animals as a greater crime than that of grains, and sanctioned it accordingly.

671 8. QANUN OF THE AITH KHATTAB[64] (AITH WARYAGHAR), ESTABLISHING THE WEDNESDAY MARKET, AND GENERAL QANUN

A) Qanun:

Praise be to the One God. When peace reigned (literally,

682 For example: whoever, in the market, should attack (someone)
443 and should kill him shall be fined 500 duros[69], and if, in attacking
he should miss him (i.e. if the bullet should fail to reach its mark),
685 he shall pay 200 duros. Whoever should take justice into his own hands
443 on the path to the market shall be fined 50 duros and shall return what-
ever object he made off with. Of those who should incite riots with
689 shouts and gunshots, as (happened) to the people of Tafrast, Ait Musa
w 'Amar (both in the clan of the Aith 'Ari) and to the people of Ajdir
(in the clan of the Aith Yusif w-'Ari), each one shall pay with his
689 death (literally, "with his neck"), that is, he must be shot. Whoever
443 should be discovered in the Monday Women's Market (Suq ath-Thnain n
562 Timgharin, at Azghar) shall be forced to pay 10 duros.

671 This is what has been decided (for fulfillment) of justice in
443 the above-mentioned market. May God, for the common good, put into
agreement His ideas and the criteria of His lords (of the market).
689 Punishment shall seek out anyone who should wish to provoke riots--
may God in His power make him meet his end.

000 The abovementioned shuyukh have worked with good intent, with
the idea of being useful. May God cause the miracles of the saints
to be manifested, and of the saint of the tomb situated in front of the
market (i.e. that of Sidi Bu 'Afif).

Each of the abovementioned shuyukh designated among his brothers
(i.e. among the men in his jurisdiction) those faithful to him (i.e.
those who constituted his escort and supported his decisions), as for
example: the Shaikh Murabit Muhammad Ashahbar designated among them
the Murabit bin Muhammad bin 'Abdallah Bu 'Azza; the Murabit Hammu bin
al-Hajj Muhammad w al-Qadi; 'Umar bin al-Hajj Tuhami Adardush; Muhammad

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167 They were too good and honorable to see themselves die out, with no fear other than that of the market announcement and without guards of any sort, on a most miserable land, which their way of life made habitable only through emigration[92] and epidemics taking care of the surplus population.

Clearly, bound to necessity, it incited the envy of more than one individual, considering the very slight severity of the punishment, the possibility of concealing the offense and the difficulty of proof, for which reason the people took refuge in traveling to places unknown to them on days which were not market days, without taking natural precautions.

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685 The qanun of the Aith Siddat shows us, in notation (c), the offense of house-breaking, with a concise and admirable clarity; it recognizes for the owner of the house the right of violent opposition, a previous guarantee to the society that neither a difference of opinion nor known resentment shall mediate between them.

671
682 By the same token, notation (b) indicates and punishes the accomplice with the same penalty in offenses in which blood is drawn as does notation (k) with 50 mithqals in the rest of the cases.

And finally, in notation (d), the right of legitimate defense is established without the slightest doubt.

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562 If in each one of the qanuns in this volume it is easy to discover its characteristics and, knowing the region, to find out what each one conceals, to explain what it says and the reasons which it gives for doing so, we must point out, in the present qanun, the interest which the Aith Siddat maintained in enforcing public respect

92--The reference here is primarily to Rifian labor migration in Algeria.

226 [619] tribe are cordial and that reciprocity be admitted; but this was not frequent.

The Aith Waryaghar considered as their fishing area the waters between the mouth of the Nkur River and the islets of the beach at Sfiha.

226 823 184 The Ibuqquyen used to mark with lime those points on the coast which by their topographical vagueness could not be distinguished from the sea, and set up good fishing sites which, once they were in them, permitted them excellent catches.

442 443 492 The fish are auctioned on the beach by loads which are afterwards taken to the market on muleback, and the proceeds are handed over daily to the administrator chosen, who periodically hands over his accounts every two or three months, usually at festival times or at the ends of seasons, a fact which thus gives rise to incidents through doubts about negotiation of payments.

226 If the fish are not sold owing to lack of buyers, they are divided up the same way in kind, and the owner is informed so that he can collect his share.

The substitutes for crew members, during justifiable absences, as mentioned above, did not enter into the proportional division of the profits, but they were given a prudential and arbitrary quantity of fish as compensation, reserving for the absent crew-member his own part as if he had been working.

226 685 Any vessel which through imprudence enters the net which another boat has laid down is responsible for the damage it causes, and any craft which in moving rams into another which has stopped is also responsible for the damage caused.

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423 The Rifian admits anything which constitutes instruction or improvement; but naturally he wants no part of any division of his
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648 holdings with strangers. This blessing of water which the official organ (i.e. the Spanish administration) as well as individuals receive, although the latter do so only to a limited degree, is not a product of technique, profitable or exemplary work as new developments would be, possible economic outlets or improvements in the present distributive net, but utilization of native labor in the style of some early-day amghar.

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648 Rare are the days of the Makhzin irrigation turn in which the
685 Mkhazniya does not present us (i.e. the administration) with some
[427] miserable akhammas[123] accused of the terrible crime of having been surprised at night attempting to lead up a thread of water into his tiny, dried-up holding, a crystalline fiber which, if it even arrives there to irrigate, only God knows; and the nubth which the Europeans derive from it, dispute from it and gain from it, did not cost them the least effort to lead up nor did they do anything other than wait sitting down while the Makhzin appropriated it. And in such a case neither the Makhzin nor the European stands to gain anything; to the contrary, they have much to lose.

F) Irrigation in the Plain of Al-Husaima:

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675 The usage of irrigation water from the Lower Ghis and Nkur Rivers has been, since time immemorial, the object of individual agreements among the irrigators, agreements which are usually put down in writing, for the flow of water, although variable, permits a regular distribution through permanent ditches, a distribution known

671 224 423 627 681 be known that one of the parties involved obliged the other one to swear, even knowing that the latter was right, the first party is fined 25 pesetas over and above the value of the animal (Aith Waryaghar).[193]

671 224 4) Animals found on someone's plot of land belong to the man who catches them and not to the owner of the land (Aith 'Ammarth).[194]

J) Nets and Snares:

223 After threshing has been completed in the late summer, threshing floors somewhat distant from the villages are used in order to hunt partridges with nets.[195] The threshing floor is prepared for this purpose, with straw and grains wasted as fodder. It is then surrounded with a semi-circular fence, a sign that it is prepared for birds.

671 223 On a threshing floor, the preferential right to any game caught is that of the owner of the floor. In a floor marked out as indicated above, only the indiviual who prepared it may hunt. Any other person (685) who tries to do so is considered a thief, and the fine he must pay is calculated on the basis of the number of partridges in the net. This right is based upon the patient preparation and expense of fodder, as bait.

223 224 After the den of a rabbit or hare or the nest of a partridge has been discovered, the hunters sprinkle the path to it with the grain residues of threshing in order to gain the animal's confidence; and when they consider it gained, they put the trap hidden between the earth and the remains of the threshed straw.

223 If partridges are being hunted, the net has a truncated conical form. The smaller end is placed in front of the nest and the larger tied to the ground with string or rope. The more the partridge tries to move forward, the more imprisoned it is.

685 671 Theft of nets is generally punished by a fine in accordance with the written qanums of the tribes.

224 K) Hunting of Jackals (Uhar), Wolves (Ushshan) and Foxes (Dhawardha):[196]

This is effected with an iron trap (dhakhshifth), with various strategems employed because of the cunning of the animals in question. Frequently one of these animals attacks the goats furthest away, and tears them into pieces before the goatherd can arrive. The remains of the goat are tied to a branch, and below them, hidden in the ground, the traps are placed in a circle. They are usually left there for a long time, for if their positions are changed, the animal or animals are apt to become wary. The jackal, after conscientious study and with maximum caution, succeeds most of the time in getting within the circle without harming himself, but the repeated jumps, each time with greater impulse, which he is obliged to make in order to get at the goat, end up with his getting caught in one of the traps (Zarqat).

224 184 825 In the Ibuqquyen, the bait is usually a reed tube full of horse-flies and covered with very rancid butter; this is hidden in the ground, and the traps are placed around it. The wary jackal usually gets inside the circle, attracted by the smell of the butter; but as the cautious animal scratches and bites, he is frightened by the flies, loses his head, and in one of his disorderly leaps, he lands on one of

224 Not exacting responsibility from the party is based on the
672 fact that theft from beehives, for example, is not undertaken during
685 the hunting, for the following day any disagreement between the members of the party would denounce it; and because of this, when the hunt is over, whoever has the intention to do any stealing returns at night and without witnesses either to the hives or the fruit trees, the dis-
224 position of which he noticed during the day. For this reason the
672 accuser obliges the hunters to point out only those who passed in his neighborhood.

224 Perhaps in compensation for such damages, there exists another
183 Rifian custom of presenting in the houses any animals which, wounded and pursued, take refuge in the hedges of cactus surrounding the dwelling; they are decapitated and thrown into the house, or presented to the owners.

224 L) Taboos:

782 A Rifian's religion and system of beliefs[199] obliges him to
784 make a special ceremony in the sacrifice of animals (by cutting their throats), to abstain from eating certain unclean animals, dead flesh,
[751] etc. These, then, are the bases of certain hunting practices: not only to avoid sin, but to maintain a certain level of hygiene.

For this reason, a shot, a trap-setting, and an unleashing of a ferret or a saluki is always preceded by the invocation Bismillah r-rahman r-rahim, "In the name of God, the Merciful, the Compassionate".

262 The clansmen of the Aith Hadhifa do not eat animals decapitated
411 by stick or cudgel blows (nor do any other Rifians).

000 Animals caught in a trap which has been set with the Bismillah